

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT FICANO, County
Executive, COUNTY OF WAYNE.
RAYMOND J. WOJTOICZ, Treasurer,
MARIANNE TALON, Wayne County
Corporation Counsel, and all ASSISTANT
COUNSEL, and JAMES G. BERRY, and
CITY OF DETROIT, and DETROIT TAX ASSESSOR
OFFICE, et al, jointly and severally,

Plaintiffs,

vs.

Case No. 10-11186

UNITED STATES ex rel, JAMES
COLE, Sui Juris,

AVERN COHN

Defendant.

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ORDER DENYING MOTION (Doc. No. 8)

I.

On March 24, 2010, James Cole, proceeding pro se, filed a paper styled:

Motion for Removal of Case to District Court of United States Because Judge Virgil Smith Denied my Motion for a Fair Trial and Denied my Judicial Notice for Judge Smith to Swear his Oaths to me and He is Bias [sic] and Prejudice [sic] Against Me and he Rescheduled Six Pleading to be Heard on 3-25-2010, Which Deny me Due Process and Equal Protection of the Law in Violation of 6th Amendment Denial of Right to Impartial Trubunial [sic] and Denial of Right to Fair Trial

He captioned himself as “United States ex rel. James Cole, Sui Juris.” The Court determined that Cole was attempting to “remove” a pending case in state court to federal court.¹ The Court further determined that Cole is being sued by the Wayne County Treasurer in Wayne County Circuit Court in an action for foreclosure for unpaid

¹Cole’s filing was virtually unintelligible.

property taxes. Because the complaint pertained to a matter arising under state law and wholly within the province of state courts, the Court remanded the case to Wayne County Circuit Court.² See Order of Remand, filed April 1, 2010. Cole appealed. See Notice of Appeal, filed April 23, 2010. Cole then filed a paper styled:

Defendant's Federal Rules of Civil Procedure Rule 60(b)(4) and According to Brushaber v. Union Pacific Railroad Company, 240 U.S. 1. Motion to Vacate the Court's April 1, 2010 Void Order

The Court construed the paper as a motion for reconsideration and denied it. See Order Denying Reconsideration, filed May 4, 2010.

On June 11, 2010 Cole filed another paper which appears to be a second motion for reconsideration³ which is now before the Court. Even assuming the motion is procedurally proper in light of Cole's appeal, see Pittock v. Otis Elevator Co., 8 F.3d 325, 327 (6th Cir.1993), the motion is DENIED. See E.D. Mich. LR 7.1(h)(3). Further, to the extent Cole is seeking to disqualify the undersigned, the motion is DENIED for lack of merit. See 28 U.S.C. § 455(a); Liteky v. United States, 510 U.S. 540 (1994); Easley v. University of Mich. Bd. of Regents, 853 F.2d 1351, 1355-56 (6th Cir. 1988).

SO ORDERED.

Dated: June 23, 2010

S/Avern Cohn

AVERN COHN
UNITED STATES DISTRICT JUDGE

²The Court also directed that the Clerk return the filing fee to Cole.

³The Clerk's Office docketed the paper as a "Right to Petition the Government and Motion to Disqualify Judge."

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was mailed to James Cole, 1331 E. Canfield St., Apt. 614, Detroit, MI 48207 on this date, June 23, 2010, by electronic and/or ordinary mail.

S/Julie Owens
Case Manager, (313) 234-5160